



COUNCIL OF CHIEF STATE SCHOOL OFFICERS

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April 29, 1998

Before the
Federal Communications Commission
Washington, D.C. 20554
In the Matter of:

EX PARTE OR LATE FILED

Federal-State Joint Board
CC Docket No. 96-45
on Universal Service

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APR 29 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear FCC Chairman Kennard:

The Council of Chief State School Officers ("CCSSO"), a nationwide, nonprofit organization that represents public officials who head state-level departments of education, would like to express its opposition to the "Objection to Application and Request for Expedited Declaratory Ruling," filed on April 3, 1998 by Integrated Systems and Internet Solutions, Inc. ("ISIS 2000") ("ISIS 2000 Petition"). In this matter, CCSSO supports the fundamental argument presented in the State of Tennessee's statement of opposition that was submitted to the Federal Communications Commission ("Commission") on April 21, 1998.

Acting by and through its Department of Education, the State of Tennessee submitted an appeal to dismiss the objection and request for a ruling filed by Integrated Systems and Internet Solutions, Inc. In this determination, CCSSO recognizes the Commission must make its decisions in accordance with rules and regulations derived from specific provisions in the Telecommunications Act of 1996, ("Act") as well as on the Order of Consideration (CC Docket No. 96-45). However, the major considerations in the challenge to the State of Tennessee's contract for education telecommunications services appear to question the State's policies and practices, which CCSSO believes are designed to provide equitable services for all of the State's students. The State's decisions for awarding telecommunications service contracts are based on an overriding objective to ensure a reliable and cost-effective telecommunications system and to reap the full benefits of competition.

CCSSO is very concerned that any decision by the Commission that challenges a State's integrity and capacity to conduct an open and fair public bidding competition could have serious consequences. The ultimate authority on these issues must remain with the states, and be resolved under the State's procedures. This is what Congress intended. In its obligation to carry out this Congressional mandate, the Commission has rightfully encouraged aggregation, with competitive bidding to maximize the use of the Fund to achieve the mission set out by Congress.

The FCC Rules give the states the right and responsibility to select the best options for their students. The FCC should not entertain challenges to the state's processes or decisions in this regard. Public bidding and awards processes are in the purview of the respective states. State education agencies are committed to support the overall goals for achieving universal service and heavily involved in providing schools and libraries with information, technical assistance and support for the development of comprehensive technology plans to assure that both educational and telecommunications goals will be accomplished.

The Universal Service Fund ("USF") program should help schools, districts, and states maximize their own investments. Furthermore, the lower the costs of one application, the less the cost of the discount. This, in turn, enables the fund to support more applications. Over the past two years, many states, including the State of Tennessee, have attempted to integrate state and local resources and facilities. These efforts are for one purpose: to use a cost effective statewide telecommunications infrastructure to further the common goal of the USF and states of providing the greatest amount of services and bandwidth for the greatest number of schools and libraries in their state. CCSSO, in its leadership role, has urged all states to use all federal resources, including discounted universal service support, as a catalyst in assuring that available state and local resources for telecommunications are used to improve the quality of school and library services.

Implementation of the USF program is complex and involves unanticipated circumstances. The goal of the USF is to provide funds for school services. Where necessary, waivers of the FCC Rules should be entertained to achieve this goal. The FCC should not disallow a USF request simply because it is "novel" if it contributes to the overall goals and priorities incorporated in Section 254(h) of the Act. Thus, absent overriding public interest determinations, funds should be made available. When a state can show that its "used" equipment can actually save both the USF and the State money, it should be given full consideration.

Technology obsolescence is critical issue for states which have made substantial investments for improving public telecommunications services. Thus, emphasis should not be on new hardware but on full services. If existing state networks are sold as the technology changes, the FCC should not preclude new service providers from using this equipment in any way or manner possible. To restrict funding artificially degrades the asset and reduces state money available to support the new service.

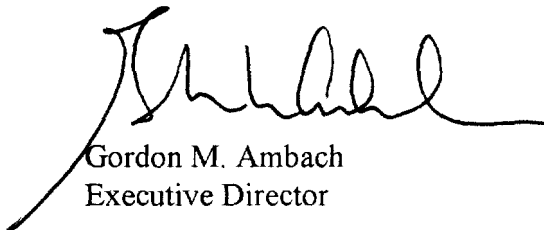
Achieving the public policy goals of the USF program will require considerable federal and state cooperation. The program should encourage states to determine the best use of all of the financial assets available for technology -- those from the USF, those from states and those from local education agencies. To do otherwise, will raise serious and appropriate questions in the minds

of the public and destroy the strong Congressional and public support for connecting all of the students in our classrooms to the information of today's world.

With respect to the Universal Service Program, the FCC has authority to rule on matters that relate to basic eligibility standards and requirements. However, the protest prepared on behalf of Integrated Systems and Internet Solutions, Inc. questions the right of the State of Tennessee to establish its own competitive bidding process, and its decision-making process for addressing the educational and informational needs of its students.

An FCC ruling in favor of the protest directed to the State of Tennessee's accepted practices for awarding competitive contracts could have a substantial and negative impact on all states. We urge the FCC to remand the protest to the State of Tennessee to be resolved through its normal procedure for alleged grievances by bidders. All state governments, and in this case, state education agencies, must be encouraged to secure the most cost effective benefits for the schools and libraries they serve. Indeed, recommendations by the Federal-State Joint Board and subsequent Orders by the FCC have encouraged states and local educational agencies to develop consortia and to aggregate the demands and expectations of their constituencies. The FCC should not put itself in a position of forcing states to adopt new processes and procedures, nor dissuading states from building upon their own investments, in planning, designing and implementing cost effective and efficient statewide telecommunications services.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "G. Ambach", with a long horizontal flourish extending to the right.

Gordon M. Ambach
Executive Director